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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/824,249	04/13/2004	Brian Keith Long	000479.00124	5753	
22909	7590 06/08/2006		EXAMINER		
BANNER & WITCOFF, LTD.			CLEMENT, MIC	CLEMENT, MICHELLE RENEE	
1001 G STREET, N.W. WASHINGTON, DC 20001-4597			ART UNIT	PAPER NUMBER	
			3641	3641	
			DATE MAILED: 06/08/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)			
Office Action Summary		10/824,249	LONG, BRIAN KEITH			
		Examiner	Art Unit			
		Michelle (Shelley) Clement	3641			
	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHO WHIC - Exter after - If NO - Failui Any r	ORTENED STATUTORY PERIOD FOR REF CHEVER IS LONGER, FROM THE MAILING asions of time may be available under the provisions of 37 CFR SIX (6) MONTHS from the mailing date of this communication. period for reply is specified above, the maximum statutory peri re to reply within the set or extended period for reply will, by sta- eply received by the Office later than three months after the ma- and patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION 1.136(a). In no event, however, may a reply be timed will apply and will expire SIX (6) MONTHS from tute, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status						
2a) ☐ 3) ☐	Responsive to communication(s) filed on 13 This action is FINAL. 2b) T Since this application is in condition for allow closed in accordance with the practice under	his action is non-final.  vance except for formal matters, pro				
Dispositi	on of Claims					
5)□ 6)□ 7)□ 8)⊠	Claim(s) <u>1-8,13-19,21-23,28-33,35 and 36</u> is 4a) Of the above claim(s) is/are withd Claim(s) is/are allowed.  Claim(s) is/are rejected.  Claim(s) is/are objected to.  Claim(s) <u>1-8,13-19,21-23,28-33,35 and 36</u> and 36 a	rawn from consideration.	ion requirement.			
	on Papers					
10) 🗌	The specification is objected to by the Exam The drawing(s) filed on is/are: a) a Applicant may not request that any objection to t Replacement drawing sheet(s) including the corr The oath or declaration is objected to by the	ccepted or b) objected to by the E he drawing(s) be held in abeyance. See ection is required if the drawing(s) is obj	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).			
Priority u	nder 35 U.S.C. § 119					
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>						
2) Notice 3) Information	t(s) e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/r r No(s)/Mail Date	4)  Interview Summary Paper No(s)/Mail Da 08) 5)  Notice of Informal P 6) Other:				

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to a discrete unit, classified in class 52, subclass 79.5.
  - II. Claims 13-19, and 21-23, drawn to a modular structure, classified in class 89, subclass 36.01.
  - III. Claims 28-33, 35 and 36, drawn to a method of transporting individuals and equipment, classified in class 89, subclass 36.07.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the rigid frame portion. The subcombination has separate utility such as an armored backstop for a firing range.
- 3. Inventions I/II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the product as claimed can be used in a materially different process such as in the process of providing stationary protection.

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4. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <a href="http://pair-direct.uspto.gov">http://pair-direct.uspto.gov</a>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MICHELLE CLEMENT PRIMARY EXAMINER